

EXHIBIT 12

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF
MASSACHUSETTS, et al.,

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH,
et al.,

Defendants.

Case No. _____

Declaration of Justin Schwartz

I, Justin Schwartz, hereby declare:

1. I am the Chancellor for the University of Colorado Boulder, a position I have held since July 2024. As Chancellor, I am the Chief Executive Officer and have oversight of all academic, research, fiscal and administrative duties of the campus. Prior to holding this position, I was Executive Vice President and Provost at The Pennsylvania State University.
2. As the Chancellor, I have personal knowledge of the matters set forth below, or have knowledge of the matters based on my review of information and records gathered by my staff.
3. I am providing this declaration to explain certain impacts of National Institutes of Health (“NIH”) Notice Number NOT-OD-25-068, *Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates*, which purports to immediately reduce indirect costs payments to 15%.

4. The University of Colorado is Colorado's flagship university. From our academic colleges to our research institutes, NIH is one of the top federal sponsors of the Boulder campus, with annual awards of \$77.9 million from NIH in fiscal year 2024. NIH funding supports research in: The **BioFrontiers Institute**, which has biomedical research initiatives in regenerative medicine, developing new biomaterials for restoring tissues to healthy states; degenerative disease, understanding the process of neurological and muscular degeneration with the goal of developing new therapies; pathogens, understanding infectious agents and how to mitigate their impact; computational biology, taking advantage of large datasets to understand biology; and Down's Syndrome. Research in the **College of Engineering and Applied Science** is actively advancing development and novel applications of technologies to health sciences. NIH-funded research includes breakthroughs in medical procedures, medical implant longevity, pharmaceutical developments, circulation and vascular therapies, design of tools for the diagnosis and prevention of movement disorders, interventions for neuromuscular rehabilitation, advances in optogenetic imaging with miniature microscopes, and musculoskeletal repair and regeneration. The **Institute of Behavioral Science (IBS)** is a national leader in interdisciplinary social and behavioral science focused on pressing societal challenges. At IBS, NIH funding fuels research essential to improving health and well-being by understanding cognitive decline, reducing substance abuse, improving access to health care, reducing crime and violence, enhancing resilience and response to natural disasters, and more. The **College of Arts and Sciences, Natural Sciences Division** conducts world-class research that increases our understanding and ability to promote human health and well-being. NIH funds support research to prevent and/or treat diseases and conditions such as cancer, cardiovascular disease, neurodegeneration, infectious diseases, addiction and other

mental illnesses, brain and spinal cord injury, loss of limbs, trauma, chronic stress, and disruption of sleep and circadian physiology. The **Institute for Behavioral Genetics** (IBG) is dedicated to understanding the genetic underpinnings of complex behaviors and disorders, including Alzheimer's disease, addiction, and mental health conditions. Its work integrates both human and animal models to unravel the genetic and environmental contributions to these critical health challenges. Through large-scale genome-wide association studies (GWAS), molecular genetic approaches, and behavioral analyses, IBG's research has played a role in identifying genetic risk factors for neurodegenerative diseases and substance use disorders, which inform potential therapeutic targets. Indirect costs for this and other NIH-funded research at the University of Colorado Boulder include infrastructure, equipment, core research facilities, staff to manage funds and meet federal requirements, and the maintenance of safe working conditions. For example, the proposed NIH cap on indirect costs at 15% would result in an estimated 74% reduction in IBG's total budget, likely forcing IBG to essentially cease operations and thus halting the groundbreaking research for which it is internationally recognized. Much of the research in these examples also provides an important training ground for the next generation of investigators (graduate students and postdoctoral scholars) committed to advancing new knowledge.

5. The University of Colorado Boulder has a Negotiated Indirect Cost Rate Agreement ("NICRA") with NIH, effective as of 7/1/2021. The Indirect Cost ("IDC") Rate in the University of Colorado Boulder's NICRA is 56.5%.
6. University of Colorado Boulder's total blended IDC rate, calculated as the average IDC rate of active awards, for NIH funding is 46.7%.

7. NIH's reduction of the University of Colorado Boulder's IDC rate will eliminate approximately \$11.7 million based on fiscal year 2024 expenditures that the University of Colorado Boulder uses to support its research programs. The loss of these funds will immediately impact the University of Colorado Boulder's ability to draw critical funds used to pay expenses associated with maintaining our critical research infrastructure and support. IDC funds on the Boulder campus are critical to providing support for payroll processing and other direct employee support. The loss of these funds will delay or halt hiring, as well as reduce our ability to provide employee services for payroll and benefits. A large portion of IDC is used to support the robust facilities provided by the University of Colorado Boulder to complete our research programs and objectives. This loss of IDC will cause the immediate halt to research building renovation and rehabilitation and force our campus to eliminate building projects that are intended to enhance our research capabilities. Additionally, we anticipate the NIH reduction may require us to limit facility operations and jeopardize our ability to meet institutional obligations.
8. IDC funds on the Boulder campus are a critical component of supporting the research mission. This change for NIH awards would cause a reduction of approximately 10% to our total campus IDC. In addition to the impacts listed in 7 above, some community-based programs will be jeopardized. For example, the **Institute of Behavioral Science** houses a wide variety of community-based programs, many embedded in schools supporting the health and well-being of children and adolescents. The drastic cuts to NIH IDC will bring IBS's research and community-based programs to a virtual standstill due to the loss of shared administrative staff and the specialized computing infrastructure essential for the Institute's efforts.

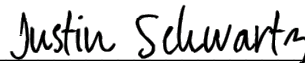
9. The University of Colorado Boulder next anticipates drawing funds on or around Monday, February 17, 2025. At that time, the reduced IDC rate will impact the University of Colorado in the following ways:

- a. Potential hiring freezes, furloughs or layoffs of university faculty, staff and student hourly positions.
- b. Reductions to planned deferred maintenance projects.
- c. Across-the-board budget cuts to meet necessary debt service obligations.
- d. Reduction or elimination of planned investments in institutional financial aid.
- e. Reduction or elimination of planned compensation increases for faculty and staff.
- f. Reduced programmatic offerings.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 9th day of February 2025, in Boulder Colorado.

Signed by:



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Dr. Justin Schwartz

Chancellor

University of Colorado Boulder